

January 19, 1994
REPORT TO THE COMMITTEE
ON PUBLIC SERVICES AND SAFETY

IMPLEMENTATION OF COLLECTION OF FINES AND WARRANTS

BACKGROUND

On November 17, 1993, the Committee on Public Services and Safety directed the City Attorney to draft legislation to implement items listed in the City Attorney's report dated November 16, 1993. The Committee also requested the City Manager to prepare fiscal impacts for the draft legislation.

This report contains draft legislation amending Penal Code section 1214.1 which would allow cities to collect a portion of the two hundred and fifty dollar (\$250.00) civil assessments presently collected by the County. (Attachment 1.)

This report also contains a draft ordinance authorizing the City of San Diego to recover any booking fees imposed by the County from an arrested person. (Attachment 2.) Section 29550.1 of the Government Code authorizes cities to recover such fees.

The City Attorney has also drafted an ordinance which would implement Penal Code section 1203.1(c) and allow the City of San Diego to collect the cost of incarceration fees from defendants convicted of an offense and ordered to serve a period of confinement in the Pre-arraignment Detention Facility ("City Jail"). (Attachment 3.)

A discussion of the draft legislation amending Penal Code section 1214.1 to allow cities to collect civil assessments, booking fees and incarceration fees follows.

1. Civil Assessments.

Penal Code section 1214.1 permits the court to impose a civil assessment of up to two hundred and fifty dollars (\$250.00) in lieu of an arrest warrant against any defendant who wrongfully fails to appear in court. Present law does not allow cities to collect the civil assessment authorized by Section 1214.1.

The North County Municipal Court in November 1992, began a pilot program to collect civil assessments and delinquent fines and forfeitures. Attachment four (4), a one-year review of that program, is submitted for information. The report discusses a program operated under Penal Code section 1214.1, which

authorizes the court to impose a civil assessment of up to two hundred and fifty dollars (\$250.00) in lieu of issuing an arrest warrant for those defendants who fail to appear, or fail to pay their fines. A portion of the civil assessment pays the collection agency's commission and the remainder goes directly to the County as general revenue.

The present law could be amended so cities would receive at least a portion of the civil assessment to offset their costs of police services and misdemeanor prosecutions. The City Attorney's Office in San Diego and several cities in California prosecute misdemeanors. A legislative proposal has been drafted which would give cities a fair share of the civil assessments collected. See Attachment One.

An agreement between the City and County to divide the civil assessments might be a desirable alternative to State legislation. The increased cooperation between County and City on the merger of governmental services may foster such an agreement.

2. Collecting Booking Fees

Section 29550 of the Government Code authorizes a county to collect from the City a fee for reimbursement of County expenses incurred with respect to the booking or other processing of persons arrested by an employee of that city. The fee imposed is called a "booking fee" while Section 29550 refers to it as a criminal justice administration fee.

Acting upon section 29550, the County of San Diego enacted ordinance number 7874 (new series) on March 5, 1991, imposing a booking fee of one hundred and fifty-four dollars (\$154.00) upon every city within the County, with the exception of the City of San Diego, which was exempted specifically for the 1990-91 fiscal year.

The City Manager and County representatives have been engaged in discussions on the nature and extent of the City of San Diego's exemption from the payment of booking fees to the County. Both parties are near agreement on terms.

Section 29550.1 of the Government Code authorizes a city to recover a booking fee imposed by a county from the arrested person. It provides that the court may, through a judgment of conviction or as a condition of probation, order the convicted person to pay the booking fee to the City.

Since the issue of exemption from the payment of booking fees by the City of San Diego is still pending, the City of San Diego has not sought reimbursement of booking fees from convicted defendants. Other cities in San Diego County delayed seeking reimbursement because of their lawsuit against the County

contesting the imposition and amount of booking fees. The City of San Diego was not a party to that lawsuit. Other cities in the County have recently enacted ordinances requesting that the courts have all criminal justice administrative fees paid by convicted persons into a trust account. Those cities will be able to recover the amount of fees paid into a trust fund upon the resolution of pending litigation. A trust fund provision is not considered necessary for the City of San Diego because the booking fee issue is near settlement.

A draft ordinance allowing the City of San Diego to collect booking fees has been prepared as Attachment 2.

3. Incarceration Fees

Penal Code section 1203.1c allowing for the recovery of incarceration costs from sentenced prisoners is operative in a city upon the adoption of an ordinance to that effect by the City Council. Such ordinance shall include a designation of the officer responsible for collection of moneys ordered pursuant to section 1203.1c and shall include a determination, to be reviewed annually, of the average per-day costs of incarceration in the city jail or other local detention facility.

The City Attorney has drafted an ordinance designed to implement Penal Code section 1203.1c to allow for the collection of costs of incarceration for sentenced prisoners, which is included as Attachment 3.

Respectfully submitted,

JOHN W. WITT

City Attorney

JMB:jp:djk:520.1(043.1)

Attachments

RC-94-3